

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AHRMANDE LECOUNT	:	CIVIL ACTION
	:	
v.	:	
	:	
GEORGE PATRICK, et al.	:	No. 06-0774

**MEMORANDUM AND ORDER**

Presently before the court is Petitioner's pro se motion to amend his habeas petition to include the claim that Petitioner's right to appeal has been denied by the state courts' failure to provide him with a full transcript of his state court proceedings.<sup>1</sup> For the reasons set forth herein, the motion will be granted.

The Federal Rules of Civil Procedure apply to motions to amend habeas corpus motions. See United States v. Duffus, 174 F.3d 333, 336 (3d Cir. 1999), cert. denied, 528 U.S. 866 (1999) (citing Riley v. Taylor, 62 F.3d 86, 89 (3d Cir. 1995)). Rule 15(a) provides that a party may amend his pleading once as a matter of course at any time before a responsive pleading is filed. Id.; Fed. R. Civ. P. 15(a).

This amendment was filed before receipt of a responsive pleading the earlier, unamended petition. I also note that the assertion of a new claim would not be precluded by the federal statute of limitations, as Petitioner submitted his motion to amend on March 28, 2006, three (3) weeks prior to the expiration of the federal statute of limitations

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<sup>1</sup>Specifically, Petitioner alleges that he is missing: (1) transcripts of his voir dire; (2) transcripts of side-bar conversations during trial; and (3) grand jury notes.

on April 19, 2006. See 28 U.S.C. § 2244(d)(1); United States v. Thomas, 221 F.3d 430, 435-36 (3d Cir. 2000) (a party may not allege an entirely new claim by amendment after the expiration of the statute of limitations); Mayle v. Felix, \_ U.S. \_ , 125 S.Ct. 2562, 2566 (2005) (holding that proposed amendment to a federal habeas petition must comply with the federal statute of limitations when the amendment asserts a new ground for relief supported by facts that differ in both time and type from those in original pleading).

Consequently, I will grant Petitioner's motion to amend. An appropriate order follows.

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**ORDER**

AND NOW, this        day of June, 2006, upon consideration of Petitioner's pro se motion to amend his habeas petition (Doc. #5), IT IS HEREBY ORDERED that the motion is GRANTED.

BY THE COURT:

s/Peter B. Scuderi  
PETER B. SCUDERI  
UNITED STATES MAGISTRATE JUDGE